

# Contractors' State License Board

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**C**reated in 1929, the Contractors' State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors. A consumer protection agency within the Department of Consumer Affairs (DCA), CSLB is authorized pursuant to the Contractors' State License Law (CSLL), Business and Professions Code section 7000 *et seq.*; the Board's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR). CSLB currently licenses over 278,000 contractors in California.

The thirteen-member Board consists of seven public members (one of whom must be an active building official), one A-general engineering contractor, two B-general building contractors, two C-specialty contractors, and one member from a labor organization representing building trades. The Board currently maintains five committees: executive, contractor and consumer education, enforcement, licensing, and legislation.

## Major Projects

### Development of 1998 Sunset Review Report

SB 2036 (McCorquodale) (Chapter 908, Statutes of 1994) established the Joint Legislative Sunset Review Committee (JLSRC) to periodically conduct—in conjunction with DCA—a comprehensive review of the need for and performance of all occupational licensing boards within DCA, including CSLB. The bill established a "sunset" date for each board, on which that board will cease to exist unless the legislature reviews the board and enacts a bill extending the sunset date. CSLB's original sunset date was July 1, 1998; thus, the JLSRC reviewed its performance at a public hearing in November 1996.

In early 1997, both the JLSRC and DCA released reports indicating they were not entirely satisfied with CSLB's response to several of the issues and problems identified by the Committee, its staff, and the public. Although both the Committee and DCA concurred that contractors should continue to be regulated and that CSLB is the appropriate entity to engage in that regulation, both branches expressed the concern that "state regulation and licensing of certain contractors may not be needed in all areas currently subject to the Board's jurisdiction if it can be determined, for example, that there is no consumer risk involved." The JLSRC noted that CSLB had appointed a Classification Review and Regulation Reduction Task Force to review the Board's 42 specialty classifications to determine whether some could be eliminated, consolidated, or refined. The JLSRC also noted that, at that time, the Board had not yet come up with an acceptable way to address an appellate court decision invalidating CSLB's regulatory definition of the B-general building contractor category (see below). In addition, the Committee instructed

CSLB to hold public hearings on the possibility of creating a certification program for home improvement contractors, contract with an independent exam expert to analyze the Board's licensing exams, find ways to shorten the timeframe for processing complaints and completing investigations, explore ways to provide restitution to consumers when they have been injured by contractors (e.g., a performance bond requirement or the establishment of an insurance or recovery fund), and address other issues identified during CSLB's sunset review.

Because "there are still major unresolved issues involving the regulatory powers of this Board," the JLSRC recommended, and both DCA and the full legislature agreed, to extend CSLB's existence for only two more years (whereas most other boards were extended for four years). The legislature passed SB 857 (Polanco) (Chapter 812, Statutes of 1997), which extended CSLB's sunset date to July 1, 2000 and instructed the Board to address the unresolved problems described below.

Since that time, CSLB has undertaken the following major projects in response to the JLSRC's recommendations; the Board published a report of its progress on October 1, 1998. At this writing, the JLSRC is scheduled to review CSLB at another sunset review hearing in 1999.

#### ♦ *New Guidelines for B-General Building Contractors.*

Under section 7055 of the Business and Professions Code, contractors are divided into three classifications: the A-general engineering contractor, the B-general building contractor, and the C-specialty contractor. Section 7056 defines the A-general engineering contractor as a contractor whose business is related to fixed works, such as schools, dams, and highways, which require specialized engineering skills and knowledge. As of 1996, section 7057 defined the B-general building contractor as one "whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof." Section 7058 defines the C-specialty contractor as a contractor whose principal business involves the use of specialized building trades or crafts. As noted above, 42 specialty classifications are enumerated under section 832 of CSLB's regulations.

Under section 7057, CSLB developed section 834(b), Title 16 of the CCR, which—as of 1996—prohibited a B-general building contractor from taking a prime contract (excluding framing and carpentry) "unless it requires at least three unrelated building trades or crafts, or unless he/she holds the required specialty license(s)." The stated purpose of the regulation was to prevent a general contractor from performing specialty tasks under color of the general license.

In early 1996, the Fourth District Court of Appeal in *Home Depot, U.S.A., Inc. v. Contractors State License Board*, 41 Cal. App. 4th 1592 (1996), voided section 834(b) as being inconsistent with section 7057 and an illegitimate use of CSLB's rulemaking authority. [15:4 CRLR 70-71] Focusing on the language of the statute, the court held that section 7057 requires a general building contractor's "principal contracting business" to require the use of more than two unrelated building trades or crafts; it "does not limit a general building contractor's operation solely to contracts involving more than two unrelated building trades or crafts" (emphasis original). The decision thus allowed a general contractor to take a contract when the job involved only a single specialty trade, such as plumbing.

In response to this ruling, a surety company sponsored AB 1455 (Cortese) in 1996, which would have amended section 7057 to permit the Board to limit, by regulation, a B-general building contractor to contracts involving less than three unrelated trades or crafts for which a specialty license has been established, unless the general building contractor holds the required specialty license(s). Governor Wilson vetoed AB 1455 on September 29, 1996, expressing his opinion that "not all of the current 42 specialty classifications which require special licensure are in the best interest of the building industry or the public. Requiring additional years of experience, testing and delay for individuals in trades where there is no consumer risk limits work options for general contractors, drives prices up to consumers, and is simply anti-business and anti-competitive." When it reviewed the Board shortly after this veto message was issued, the JLSRC concurred with Governor Wilson (see above), and directed the Board to expedite the ongoing review of its specialty license classifications.

During 1996-97, a Board-appointed task force held public hearings, conducted a survey of the building industry and eight city/county building departments, reviewed CLSB enforcement data, and studied the Board's specialty classifications. As a result of the task force's work, CSLB sponsored—and the legislature passed—SB 857 (Polanco) (Chapter 812, Statutes of 1997), which amended section 7057 and specifically modified the court's ruling. Section 7057 now specifies that a B-general building contractor may legally take a prime contract or subcontract that involves (1) framing or carpentry, or (2) at least two unrelated trades or crafts other than framing or carpentry (framing or carpentry may not be counted as one of the two unrelated trades or crafts). Further, a B-general building contractor may take a contract for a single specialty trade, provided the work of the contract is subcontracted to a properly licensed specialty contractor, or the general building contractor holds the relevant specialty license.

♦ **Board Acts to Consolidate Specialty Licenses.** After the *Home Depot* decision and the Governor's veto of AB 1455, the JLSRC expressed its doubt about the need for all 42 specialty licenses. In late 1996, CSLB invigorated its Classification Review and Regulation Reduction Task Force, which reviewed the entire specialty classification structure, held pub-

lic hearings, and sent a questionnaire to various trade organizations soliciting input on whether and how to reduce the number of classifications. The task force also considered the number of individual licensees within each specialty. The task force ultimately made several recommendations. Based on these recommendations, CSLB repealed section 832.06 (Cabinet and Millwork), Title 16 of the CCR, and merged it into section 832.05 (now called Carpentry, Cabinet and Millwork); and repealed section 832.26 (Lathing) and merged it into section 832.35 (now called Lathing and Plastering). These changes became effective on January 1, 1998. The Board also repealed section 832.14 (Metal Roofing) and merged it into section 832.39 (Roofing) and section 832.43 (Sheet Metal); this change became effective on July 1, 1998.

One clause of section 832.14 allowed structural steel contractors (C-51) to install metal roofs; in repealing section 832.14, the structural steel contractors' exemption was also repealed. The Board corrected this problem by publishing, on May 29, 1998, notice of its intent to amend section 832.51 (Structural Steel Contractors) to permit structural steel contractors to install metal roofs. This amendment, which was adopted by the Board, was approved by the Office of Administrative Law on November 30 and became effective on December 30.

On September 4, CSLB published notice of its intent to repeal section 832.55 (Water Conditioning) and merge it into section 832.61 (Limited Specialty). However, following an October 21 public hearing and the receipt of written and oral comments and testimony, CSLB voted to maintain the status quo and the C-55 Water Conditioning specialty classification.

As a result of this rulemaking, no specialty classifications have been eliminated; their total number has simply decreased due to the consolidation actions described above. In its sunset report, CSLB notes that "it is not in the best interests of consumers to eliminate any

Specialty license classifications, considering the results of the health and safety survey, public testimony, and potential risks to consumers." The one-page "health and safety survey," which

is attached to CSLB's October 1998 sunset report, was mailed to specialty contractor trade organizations; it asked each organization which specialty classification it represents and whether that classification, if performed improperly, would pose a health and safety risk to consumers.

♦ **Home Improvement Contractor Certification Program.** In response to one of the JLSRC's initial sunset questions, CSLB staff compiled data indicating that the majority of financial injury and consumer complaints filed with the Board are attributable to problems with home improvement contractors. CSLB initially proposed a Home Improvement Certification Program which would require all prime contractors and subcontractors who perform home improvement work to pass an open book exam on the home improvement business and fulfill a continuing education requirement, or post a blanket payment and performance bond of \$250,000. The Board's plan was opposed in the legislature. The modified

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plan, AB1213 (Miller) (Chapter 888, Statutes of 1997), amended section 7150.2 of the Business and Professions Code to require CSLB to establish a mandatory certification program for home improvement contractors by January 1, 1999. After July 1, 2000, a contractor may not engage in the home improvement business unless he/she has been certified under section 7150.3; certification requires completion of an application, a current contractor's license, and passage of a one-time, twenty-question (multiple choice), open-book, take-home (via the Internet) exam, which may be retaken until successful. All the information an examinee needs to pass the test is in the *Home Improvement Certification Reference*, which is also available on the Internet. The Board has submitted a budget change proposal to finance the additional positions required to run the program. The stated purpose of this certification is to raise the contractor's awareness of the consumer's concerns and thereby prevent problems from occurring. Accordingly, CSLB is currently notifying contractors who perform home improvement work that passage of this exam becomes mandatory by July 1, 2000.

◆ **Certification Programs for Asbestos Contractors and Hazardous Materials Removal.** In its initial sunset review of CSLB, the JLSRC questioned whether CSLB should continue to administer existing certification programs for asbestos contractors and those who remove hazardous materials.

Under Business and Professions Code section 7058.5, no contractor may engage in asbestos-related work which involves 100 square feet or more of surface area of asbestos-containing materials unless the contractor has passed an asbestos certification examination administered by CSLB. The Board reports that, although it is authorized to discipline a contractor who violates laws pertaining to asbestos, its staff lacks the expertise to determine whether such a violation has occurred. CSLB currently relies on the investigations and testimony of experts from Cal-OSHA's Division of Occupational Safety and Health (DOSH) or of officials from local health agencies. CSLB and DOSH agree that the asbestos certification program should be transferred to DOSH, and are developing legislation to that effect.

In 1986, the legislature added section 7058.7 to the Business and Professions Code, delegating to CSLB the responsibility for certifying contractors who work with or remove specified hazardous materials. Additionally, CSLB is authorized to discipline contractors who undertake such work without obtaining the appropriate certification. The JLSRC asked whether CSLB remains the best agency to oversee this program. Initially, the Board considered transfer of the program to the Department of Toxic Substances Control (DTSC) because of its expertise in handling hazardous materials. However, DTSC opposed the transfer because it lacks the investigative staff and disciplinary machinery to properly administer such a program. Thus, the Board believes it to be in the public interest for CSLB to continue to administer the hazardous materials program.

◆ **Examination Analysis.** In 1993, the Assembly Consumer Protection Committee held public hearings which revealed, among other things, that the pass rates on CSLB's licensing exams are very high, raising the possibility that in-

competent people are passing the exam and becoming licensed. [14:1 CRLR 39; 13:4 CRLR 41] In 1997, the JLSRC recommended that CSLB hire an independent examination consultant to (1) conduct an occupational analysis of various contractor classifications and evaluate the Board's current exams based upon that analysis; and (2) determine whether the Board's exam waiver policies ensure that applicants who are licensed without being required to take an exam are competent. In its October 1998 report, CSLB noted that it included a budget change proposal in its 1998-99 budget to hire the consultant. CSLB has now selected the consultant, and the results should be available by December 31, 1999.

In a related matter, CSLB intends to propose legislation in 1999 raising the penalty for subverting any of its licensing exams from \$10,000 to \$50,000. The proposed legislation comes in response to allegations that unscrupulous licensing schools are obtaining copies of CSLB's exams and selling them to prospective licensees.

In 1998, CSLB sponsored a bill to require high school equivalency as a prerequisite to obtaining a contractor's license. The bill failed to gain support. At its strategic planning meeting in November, CSLB discussed and adopted the goal of incorporating a high school equivalency requirement into its licensing procedure.

◆ **Length of Complaint Processing Time.** The JLSRC identified the need for CSLB to shorten the time it takes to process complaints and complete investigations. According to the Committee, this need became particularly apparent after the natural disasters that struck California between 1994 and 1996. Although the mean closure time between receipt of the complaint and case disposition was 55 days at the time of CSLB's first sunset review, JLSRC staff found that it takes CSLB two years to process some cases from initial complaint to disposition (either dismissal or referral for legal action). Accordingly, the JLSRC requested that CSLB study and submit recommendations on ways to reduce the time lag.

CSLB's first step has been to focus on expedited complaint processing; according to the Board, this approach has already resulted in a 20% drop in the mean closure time to 45 days since CSLB's initial sunset review. Special emphasis has been placed on cases which are over 180 days old; during 1997-98, CSLB reduced the number of these older cases by 20%. Registrar Lance Barnett also directed staff to "triage" complaints as they are received from the consumer. Dr. Barnett intends to handle complaints based on severity of impact to the consumer, rather than on a first-come-first-served basis. Dr. Barnett admits that this approach will not necessarily affect the time component of the process, but hopes that it will raise the level of consumer satisfaction and reduce the negative impact on the individual consumer. CSLB has also begun to work with the Attorney General to develop a procedure to fast-track the prosecution of contractors who are the subject of multiple complaints.

CSLB also sponsored SB 1792 (Mountjoy) during 1998 to expand its voluntary arbitration program under section 7085 of the Business and Professions Code; the bill increases the monetary cap on arbitration from \$25,000 to \$50,000, and

requires CSLB to establish minimum qualifications for arbitrators (see **LEGISLATION**). The goal of this program is to attempt to reach equitable solutions for the consumer in as short a time as possible. A side benefit to this program is a partial reduction in the backlog of cases being investigated.

Finally, CSLB plans to establish relevant performance measures to assure that its functions, including complaint processing and investigations, are performed in accordance with standards that promote effective and efficient work; and to restructure the way it reviews and investigates complaints by replacing Board district offices with dispute resolution centers and equipping its investigators with computer and other equipment which will enable them to perform the majority of their duties in the field or at home, not in a rented office (see below).

♦ **Local Building Officials to be Approached.** In 1995–96, of 30,000 complaints filed with CSLB, only 127 were filed by state or local agencies. Local building officials are considered to be in the best position to discover and report incompetent or unlicensed contractors. The Board thinks that this lack of referred complaints is due in part to a lack of awareness on the part of the local agencies of laws pertaining to contractors. The JLSRC recommended that CSLB develop an outreach program similar to that of the Board of Architectural Examiners to ensure awareness and cooperation from local agencies. Currently, section 7002 of the Business and Professions Code requires one CSLB member to be an active building official; that member, Donald Schultze, pointed out that CSLB and the California Building Officials (CALBO) have a liaison committee which is currently underutilized. He stated that this committee would be a good place to start spreading information to local agencies. The Registrar agreed, and stated his commitment to increasing the effectiveness of this committee and to providing a condensed version of CSLB's enforcement manual to CALBO.

♦ **Board Considers Consumer "Safety Net" Options.** During sunset review, the JLSRC expressed concern that consumers are frequently unable to recover financially when a contractor bankrupts or absconds with their money without completing the contracted project. The current bonding requirement is only \$7,500, which is typically gone before the consumer attempts recovery; according to the JLSRC, "surety bonds do not provide protection to consumers," and "frequently, the homeowner's only recourse is to sue in small claims court or file a civil action against the contractor." Approximately fifteen states maintain some type of recovery fund which may reimburse (in whole or in part) consumers who have been victimized by dishonest, incompetent, or bankrupt contractors. The JLSRC instructed the Board, and CSLB instructed its Registrar, to investigate possible methods for providing consumers with a "safety net."

At CSLB's September meeting, Registrar Lance Barnett presented the Board with several ways to implement a consumer safety net: (1) a "step-bonding" program based on the amount of the prime contract—the higher the amount of the contract, the higher the required bond; this would bring the existing bonding requirement in closer alignment with the potential loss; (2) a mandatory payment or performance bond—

again tied to the value of the contract; and (3) the establishment of a recovery or restitution fund, funded by contractors as a requirement of licensure and maintained by the Board.

Most Board members opposed all of Barnett's suggestions. Members opposed the bond recommendations, stating that they would act as a "barrier to entry" for new applicants and may not be acceptable to the legislature. The idea of a restitution fund financed by contractors' licensing fees and administered by CSLB was also not well received by the Board. Members noted that any increased costs imposed on contractors would be passed on to consumers. Board member Douglas Barnhart vehemently opposed the restitution fund idea, arguing that these types of funds reward consumers who do not act wisely during contract negotiations at the expense of consumers and contractors who do. He argued that consumers should be responsible for protecting themselves.

During its November 12 meeting, the Board adopted amendments to its strategic plan, including specific language requiring the Board to "create a system that relies on market mechanisms to protect consumers who contract for residential home repair and improvement services." Additionally, the Board plans to investigate other consumer protection strategies, such as required general liability insurance for certain types of contractors.

♦ **Cost of Industry Expert Witnesses.** In its 1997 sunset report, the JLSRC noted that—although the number of complaints annually received by the Board has not increased—the number and cost of industry expert witnesses used by CSLB in disciplinary proceedings has almost tripled since 1992–93 (from \$551,000 in 1992–93 to \$1.3 million in 1995–96). CSLB explained that the increase is largely attributable to the number and complexity of the cases resulting from natural disasters. In its October 1998 report, CSLB further noted that it has implemented stricter cost controls on its industry expert program, including written justifications for charges exceeding \$300 (which must be approved by a district supervisor).

♦ **CSLB Considers Hiring FTB to Collect Overdue Fines.** In its sunset report, the JLSRC noted that CSLB has collected only 10% of the penalties it has assessed for violations of its license laws; approximately \$8,000,000 in assessed fines is uncollected. CSLB currently uses two collection agencies selected under the requirements of the Public Contract Code. The JLSRC suggested that CSLB consider using the Franchise Tax Board (FTB) to collect the unpaid fines. Utilization of the FTB requires authorization by the legislature. At its October meeting, CSLB directed staff to study the feasibility of such a plan.

## **Restructuring of CSLB's Intake/Investigation Process**

At the Board's September meeting, Registrar Lance Barnett introduced a plan to completely restructure CSLB's intake and investigation process. Essentially, the plan calls for the closure of fifteen of the Board's district offices; in their place, CSLB would establish two Intake-Mediation Centers and two Investigation Centers. The centers would be located in San Diego, Buena Park, Oakland, and Sacramento. The Board's investigative staff would be expanded and

equipped with mobile offices, including a laptop computer, modem, cellular phone, and fax machine. Complaints would come in through a toll-free number to a central office (Sacramento), where they would be triaged and downloaded daily to the appropriate field officer. The officer would then follow up on the complaint by phone and in person. Dr. Barnett's plan is to use the money saved by consolidating the physical plants to increase and properly equip the investigative staff. This increase in staff numbers and ability would increase effectiveness and reduce the time from case filing to disposition.

At the September meeting, the Board expressed approval of the triage concept, but opposed the overall restructuring plan. Board member Jake Shirvanian stated that licensees prefer the convenience and familiarity of having access to CSLB via a local office. At CSLB's November meeting, members refused to adopt the restructuring plan as part of the Board's overall strategic plan. Several members voiced their intent to oppose any restructuring plan that includes closure of local offices. At this writing, staff plans to present a scaled-back version of the restructuring program—as a pilot project covering a limited area within the state—at CSLB's January 26 meeting.

## Enforcement Update

A major goal of the Board is to stop unlicensed and substandard work. To achieve this goal, CSLB has an ongoing program of "sweeps" and undercover "sting" operations. The "sweeps" consist of sending field agents into areas of especially intense contracted work, typically areas hit by a natural disaster. The undercover "stings" usually consist of finding a cooperative homeowner and calling contractors who advertise without listing a license number. When they come out to bid the job, they are videotaped and then cited by a CSLB investigator. In 1998, the Board voted to maintain the number of "sweeps" and "stings," and added a mandate to enlist local business license departments to require proof of a valid contractor's license before issuing a business license. Additionally, the Board is investigating ways to deter local newspapers from running advertisements from unlicensed contractors. The Board is also seeking to create a program to apprehend contractors who are involved in major frauds against consumers; CSLB wants to establish a fraud unit by fiscal year 1999–2000, and has submitted a budget change proposal to the Department of Finance (which is being held for the new administration).

## CSLB Consumer Education Update

A major focus of CSLB is consumer education. In 1995, the Board began a consumer awareness campaign called, "Get Smart—Get a Licensed Contractor," and invited local media to cover its sting and sweep operations in an attempt to develop a higher profile. [15:2&3 CRLR 49; 15:1 CRLR 49] In 1996, CSLB began a Speaker's Bureau and developed contact with local consumer and senior citizens' groups. The purpose of these programs is to raise public awareness of the problems caused by unscrupulous and/or unlicensed contractors, and how to contact CSLB when problems arise. In 1998, CSLB developed a program titled "Schemes, Scams, and Rip-

Offs," which it presented at two senior citizens' forums in Pasadena and Palm Desert. CSLB will continue presenting this program at a series of forums scheduled to take place in shopping malls and home shows throughout the state.

## Merit Badges

At the Board's October meeting, CSLB Registrar Lance Barnett proposed a plan to develop a type of "merit badge" for contractors. Under this proposal, CSLB would identify areas of specialization within the existing contractor classifications which are important to consumers. The Board would then develop a voluntary testing and certification system covering these specialties. Once a contractor passed the test, he or she would be allowed to advertise as a certified specialist in that area. The Registrar analogized this approach to specialty certifications in the medical field. He noted that such a system would provide CSLB with flexibility to deal with new and developing techniques of construction, and provide incentives and an acknowledgment to contractors who make an extra effort. Although some Board members voiced concerns about the process of identifying the subspecialties and the problem of ensuring that a licensee remains competent once the merit badge is awarded, CSLB approved the concept and instructed the Registrar to identify key components of the merit badge system by March 31, 1999. The Board will then seek legislation creating the system by October 1, 2000.

## Legislation

**AB 771 (Margett).** Existing law specifies the jurisdiction of the small claims court to include various actions in which the defendant is a guarantor who is required to respond based upon the default, actions, or omissions of another (for example, a surety for a person required by law to post a bond, such as a contractor), if the demand does not exceed \$2,500. As amended June 23, this CSLB-sponsored bill increases the small claims court's jurisdiction over defendant guarantors to \$4,000, provided the action is filed on or after January 1, 2000 and the defendant guarantor charges a fee for its guarantor or surety services. The bill requires the court, upon written request of the defendant guarantor, to grant one 30-day postponement of the hearing. This bill was signed by the Governor on August 3 (Chapter 240, Statutes of 1998).

**SB 1792 (Mountjoy),** as amended July 2, increases the monetary cap on cases that may be submitted to CSLB's voluntary arbitration program from its current maximum of \$25,000 to a maximum of \$50,000. The bill also requires CSLB to adopt regulations setting minimum qualification standards for arbitrators based upon relevant training, experience, and performance. SB 1792 was signed by the Governor on September 13 (Chapter 492, Statutes of 1998).

**AB 2301 (R. Wright),** as amended August 17, requires any contract for the sale of home improvement goods or services offered by door-to-door sale that is secured by a lien on real property to include a prescribed notice regarding the use of a home as security. A security interest created in any contract or agreement that does not include the required notice is void and unenforceable, except as specified. The bill provides

that no home improvement goods or services contract of a value of \$5,000 or less shall provide for a security interest in real property (except for a mechanics' lien or other interest that arises by operation of law); and also requires, when the proceeds of a loan secured by a mortgage on real property are used to fund goods or services pursuant to a home improvement goods or services contract of more than \$5,000, that the person making the loan must pay the contractor by specified methods. This bill was signed by the Governor on September 17 (Chapter 571, Statutes of 1998).

**AB 2627 (Brown).** Existing law generally regulates the enforcement of mechanics' liens and the use of stop notices for private works of improvement and for public works; and requires, except as otherwise agreed to in writing, the owner of a work of improvement to pay to the contractor, within 30 days following receipt of a demand for payment in accordance with the contract, any progress payment due thereunder as to which there is no good faith dispute between the parties. Existing law entitles a contractor to a penalty if any amount is wrongfully withheld in violation of this provision.

As amended August 26, this bill provides that if an original contractor is not paid all moneys owed pursuant to a written contract for a work of improvement within 35 days from the date payment is due pursuant to the contract, and there is no dispute as to the satisfactory performance of the contractor, the contractor has the right to serve a 10-day stop work order stating that unless all amounts then due are paid within 10 days of notice, the contractor will stop work on the project. The bill requires the owner to notify the construction lender upon receipt of notice from the original contractor; provides that the contractor and his/her surety or subcontractor and his/her surety are not liable for any delays or damages that the owner may suffer as a result of the contractor serving the stop work order and subsequently stopping work for nonpayment; and specifies the contractor's or subcontractor's liability to a subcontractor or material supplier. This bill authorizes an expedited proceeding in the superior court in the county in which the project is located regarding liability for the amount not paid for work performed. The bill also provides that it is against public policy to waive these provisions in a written contract for private work of improvement. This bill was signed by the Governor on September 29 (Chapter 986, Statutes of 1998).

**SB 2217 (O'Connell).** The Contractors' State License Law regulates the licensure and discipline of contractors, but exempts from those provisions work for which the aggregate contract price is less than \$300. As amended August 24, this bill increases the maximum contract price applicable to this exemption to less than \$500; requires unlicensed persons performing work with a maximum contract price costing less than \$500 to disclose to the purchaser, pursuant to a written notification, that he/she is not licensed by CSLB; and authorizes the CSLB Registrar to issue citations against persons failing to maintain this written notification. The Governor signed this bill on September 19 (Chapter 633, Statutes of 1998).

**SB 2238 (Committee on Business and Professions),** as amended August 26, requires CSLB to initiate the rulemaking process, on or before June 30, 1999, to require its licentiates to

provide notice to clients and customers that they are licensed by the state of California. It also requires CSLB to submit to the DCA Director, on or before December 31, 1999, its method for ensuring periodic evaluation of every licensing examination that it administers. This bill was signed by the Governor on September 26 (Chapter 879, Statutes of 1998).

**SB 597 (Peace),** as amended July 2, expands the penalties for unlawful advertising practices on the Internet. Specifically, it adds "any electronic transmission" to Business and Professions Code section 7027.1, which will allow CSLB to issue citations to unlicensed contractors who advertise on the Internet. The Governor signed SB 597 on September 18 (Chapter 599, Statutes of 1998).

## Recent Meetings

At its July 1998 meeting, CSLB elected public member Marilyn Dailey as Board Chair for 1998-99; B-general building contractor Joe Tavaglione was elected Vice-Chair.

At CSLB's November meeting, a representative of Santa Monica Baykeeper addressed the Board on the need to educate contractors about reducing the amount of polluted storm water that runs off construction sites. According to Baykeeper, storm water often drains untreated into receiving waters and bays, causing lowered fisheries production, decreased water quality, and restricted water recreation. Water quality specialists agree that half of the pollution entering marine environments is from untreated storm water run-off and that improperly managed construction sites contribute sediment, chemicals, solid waste, phosphorous, and nitrogen to the flow. To help prevent such pollution, the Water Resources Control Board requires that many construction activities be covered by a National Pollution Discharge Elimination System permit; the permit, issued by a regional water quality control board, sets forth measures to control polluted storm water from running off construction sites, including implementation of "best management practices," job site housekeeping practices, erection of silt fences, and use of detention ponds.

Also in November, CSLB noted that 1999 marks the Board's 70th anniversary. The Board unveiled a new 70th anniversary logo that it will use throughout 1999, and will conduct a number of special activities during 1999 to mark the occasion.

CSLB is using new technologies that are being made available on the Internet to broadcast Board meetings to a large audience. CSLB's December 1998 meeting was broadcast "live" using the RealNetworks' "streaming media" RealAudio sound technology. Interested individuals with adequate equipment may access the Board's website, click on the date of the Board meeting desired, and listen to the entire Board meeting or portions of it.

## Future Meetings

- January 26-27, 1999 in Sacramento.
- April 21-22, 1999 in Concord.
- July 15-16, 1999 in San Diego.
- October 20-21, 1999 in Los Angeles.
- November 9-10, 1999 in Riverside.